

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JACQUELINE D. BERRY,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A.No. 06-217-GMS
	:	
STATE OF DELAWARE,	:	
DIVISION OF CHILD SUPPORT,	:	
	:	
Defendant.	:	

DEFENDANT’S MOTION TO CONVENE A CONFERENCE

Defendant moves the Court to schedule a telephone conference at its convenience to address issues of scheduling and discovery. In support of this application, the following is shown:

1. On March 31, 2006, plaintiff commenced this Title VII and ADA lawsuit by filing a complaint. (D.I. 1) On May 12, 2006, summons was issued as to defendant. On June 16, 2006, plaintiff moved to amend the complaint. (D.I. 6) On June 19, 2006, defendant filed an answer. On July 28, 2006, the Court granted plaintiff’s motion to amend the complaint and defendant answered the amended complaint within a week. (D.I. 7, 9)

2. On August 30, 2006, the Court entered a scheduling order that provided that discovery be completed by March 2, 2007. On September 5, 2006, defendant filed and served plaintiff with its first set of interrogatories and request for production. Accompanying the discovery and under a cover letter, counsel

also two forms of authorizations, one for medical records and one for employment information. (D.I. 11, 12, 13) (authorization forms are attached)

3. On October 30, 2006, plaintiff moved for an extension to respond to discovery. (D.I. 14) On January 17, 2007, counsel wrote to plaintiff requesting that she provide the discovery responses as almost three months had passed since she requested an extension and the discovery cut was March 2, 2007. (D.I. 17) At the end of January, plaintiff provided some of the requested information, but did not return the authorizations for the release of information.

4. On February 28, 2007, plaintiff was deposed and she stated that she would not sign the authorizations.

5. The discovery deadline has passed but defendant needs the authorizations to obtain information regarding her ADA and Title VII claims. Counsel apologizes for not requesting an extension prior to the deadline, but was in trial on another matter in the Superior Court. At her deposition, plaintiff indicated that she would oppose any extension of the discovery period. This matter is not presently scheduled for trial, but is scheduled for case dispositive motions on May 2, 2007.

6. For the above reasons, Counsel believes that a conference by telephone with plaintiff and counsel would permit the Court to address and/or adjust the schedule and discovery issues. Counsel for defendant is willing to schedule and initiate the telephone conference on a date and time convenient to the Court.

Respectfully submitted,

STATE OF DELAWARE
Department of Justice

/s/ Marc P. Niedzielski
Marc P. Niedzielski (# 2616)
Deputy Attorney General
820 N. French Street, 6th Floor
Wilmington, DE 19801
(302) 577-8324
marc.niedzielski@state.de.us

DATED: March 9, 2007

NOTICE OF SERVICE

The undersigned certifies that on March 9, 2007, he caused two (2) copies of the attached document be served on the following person by regular U.S. Mail:

NAME AND ADDRESS OF RECIPIENT(S):

Jacqueline D. Berry 20 Hickory Lane Dover, DE 19904	
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STATE OF DELAWARE
DEPARTMENT OF JUSTICE

/s/ Marc P. Niedzielski
Marc P. Niedzielski, I.D. #2616
Deputy Attorney General
Carvel State Office Building
820 N. French Street, 6th floor
Wilmington, DE 19801
(302) 577-8400
Attorney for Defendant

AUTHORIZATION FOR RELEASE OF INFORMATION

I, Jacqueline D. Berry, SSN [REDACTED], DOB [REDACTED], do hereby authorize anyone to release all employment information, applications for employment, records, or information from anyone who has received, reviewed, interviewed or investigated me for employment purposes and further authorized such persons to speak with the below named individuals or their agents.

I hereby discharge any legal claim of any nature against such individuals who in accordance with this authorization provide employment information and records to the following named individuals or their agents:

Marc P. Niedzielski
Deputy Attorney General
Department of Justice
820 N. French Street, 6th Floor
Wilmington, DE 19801

A photocopy of this authorization is fully effective to release any such information and can be used for six months from the date executed.

Jacqueline D. Berry

Date

Witnessed by:

AUTHORIZATION FOR THE RELEASE OF INFORMATION

Client Name: (print) Jacqueline D. Berry Date of Birth May 31, 1956I, Jacqueline D. Berry authorize _____
(Client's Name) (Name of Healthcare Provider)

to release and/or provide copies of my health information to:

Marc P. Niedzielski, Deputy Attorney General
 820 N. French Street, 6th Floor
 Wilmington, DE 19801

to allow any member or employee of said firm, or any physician appointed by said firm, to examine such health information regarding the condition or treatment of me, to confer with any member or employee of said firm regarding such treatment or condition.

These records are needed for the following reason(s):

___ Medical Care
x Legal Consultation
 ___ Insurance Review
 ___ Other (specify)

The following information is to be released:

x Medical Records (including, but not limited to: Physician's Orders, Progress Notes, Diagnostics, Treatments)
X Financial Records
X Special Records including substance abuse treatment and counseling, mental health, HIV and STD information.
 ___ Other:

In reference to the following (where applicable):

___ Date(s) of Service -
 ___ Location(s)
 ___ Department(s)
 ___ Type(s) of Service:

Expiration of this authorization: **This authorization expires in one year**

Revoking this authorization. This authorization may be revoked at any time but is not retroactive for requests that have been complied with in good faith. To revoke this authorization, please provide a written request to the department releasing your information.

 (Signature of Patient/Client) (Date) OR

 (Signature of Legal Representative & Relationship) (Phone) (Date)

Information, once released, may no longer be protected by Federal Privacy Rules and may be subject to re-disclosure by the recipient. However, information covered under Federal Regulation 42 CFR Part 2 may not be re-disclosed unless expressly permitted by the authorization or the regulations.

A photocopy of the signed authorization is as valid as the original